

formed on the surface of the substrate and in which the maximum level difference between the surface heights of the wells is reduced (specification, page 8, lines 19-25). This may be accomplished by covering the oxide over the first well with a nitride film during growth of the oxide over the second well (Figs. 3A-3G). Alternatively, it may be accomplished by growing the oxide layers over each of the first and second wells in the same step (Figs. 4A-4E). After each of these alternatives, the third well is formed, between each of the previously formed wells, with a surface height that is higher than that of the first and second wells.

Joy does not disclose or suggest the claimed invention. Joy's drawings, including Fig. 8g, are not to scale and cannot be used to establish proportions of elements. See M.P.E.P. § 2125. Moreover, Joy's description of Figs. 7a and 8a-8h makes it clear that Joy cannot form a device as claimed. The method shown and described by Joy in connection with Figs. 7a and 8a-8h is essentially the same as the prior art described in Applicants' specification in connection with Applicants' Figs. 1A-1G. The figures correspond as follows: Joy Fig. 8b corresponds to Applicants' Fig. 1A; Fig. 8d corresponds to Fig. 1B; Fig. 8e corresponds to Fig. 1D; Fig. 8f corresponds to Fig. 1E; Fig. 8g corresponds to Fig. 1F; and Fig. 8h corresponds to Fig. 1G.

In particular, please note that Joy wells 65 and 68 (Fig. 8g) cannot have the same top surface height. When oxide 69 is grown over well 68, oxide 66 (of the first formed well 65) is not protected. Therefore, as described both in Joy and in the present application, oxide 66 will thicken during growth of oxide 69; the surface of well 65 will, therefore, become lower than the surface of well 68. Compare Joy, column 9, lines 5-12 to Applicant's specification, page 5, lines 12-17. The result is substantially the same as that shown in Fig. 1E of the present application. Although the drawings of Joy might seem to show, out of context, that the surfaces of wells 65 and 68 are at the same height, upon reading the specification and applying the knowledge of one skilled in the art, it

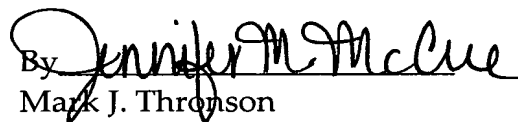
is apparent that this result was not actually possible, and therefore Joy does not disclose or suggest it.

Joy fails to disclose or suggest that at "least one kind of well has a top surface height level higher than the top surface height levels of the other two kinds of wells in relation to the top surface of said substrate, wherein said other two kinds of wells have substantially the same top surface height level as each other." This is an important aspect of the claimed invention. Accordingly, claim 1 should be allowable over Joy. Claims 2-8 depend from claim 1 and should be allowable along with claim 1 and for other reasons.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Dated: January 11, 2007

Respectfully submitted,

By 
Mark J. Thronson

Registration No.: 33,082

Jennifer M. McCue

Registration No.: 55,440

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006-5403

(202) 420-2200

Attorneys for Applicant